

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 458 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PATEL NARESH AMRATLAL

Versus

STATE OF GUJARAT

Appearance:

MR AM PAREKH for Petitioner

MR BY MANKAD ADDL PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 08/09/1999

ORAL JUDGEMENT

#. Heard Mr.Parekh, learned advocate for the petitioner and Mr.B.Y.Mankad, learned APP for the respondent State.

#. Rule. Mr.B.Y.Mankad, learned APP for the respondent State waives service of rule. Mr.Parekh, learned advocate for the petitioner tenders an affidavit of Mr.Nanubha Balubhai Zala of Magpura, Distirct Mehsana.

According to the record of the original RTO authority, the jeep car seized is owned by the petitioner and as this Nanubha Balubha was to purchase the jeep car from the petitioner, he had paid Rs.60,000/- to the petitioner. This Nanubha has declared on oath by the above affidavit that he has no objection if the jeep car in question is handed over to the petitioner irrespective of his payment of Rs.60,000/- . There is no direct involvement of the petitioner in the present crime registered with the police. So far as the papers of investigation are concerned, upto this stage, charge is already framed and the applicant is not one of the accused and being the registered owner, the jeep car can be handed over to him otherwise the valuable vehicle may deteriorate. The efficiency of the vehicle, price, resale value may also affect adversely if the same is lying idle in the open compound of the police station. The tyres of the motor vehicle can not bear burden for months or years if the vehicle is a stationery vehicle, in that case, the vehicle should be handed over to the petitioner.

#. Mr.Mankad, learned APP appearing for the respondent State submits that he has no instructions to resist this petition and he does not press for reasoned order. So the above submission made by the learned advocate Mr.Parekh is accepted. In view of this, it is ordered that the vehicle in question i.e. Jeep Car having registration No : GJ 17A 8794 be handed over to the present petitioner on furnishing surety of Rs.25,000/(Rupees Twenty Five Thousand only) and personal bond of Rs.1 lakh, by way of interim arrangement on the following terms and conditions;

- (1) The petitioner shall not sell or otherwise transfer this vehicle to any other third party unless specifically permitted by the competent Court.
- (2) The petitioner shall not make any change in the colour, and body of the jeep car so that the witnesses, if required, could identify the vehicle at any stage of the trial.
- (3) In the event of any accident, if the vehicle requires repair, then in that event, before undertaking such repairs, the petitioner shall inform the concerned court and after obtaining the necessary prior permission, the petitioner shall undertake the repairing work.

(4) The vehicle may be produced before the competent court concerned as and when asked. It is clarified that this order is subject to final outcome of the trial and orders that may be passed pertaining to the Mudamal by the competent court at the conclusion of the trial.

(5) The petitioner shall not use or permit to use this vehicle in identical type of cases or any offence and shall not ply this vehicle on hire and shall not use as public service vehicle.

The order to be carried out by the trial court concerned. Yadi be sent forthwith. Direct Service is permitted. Rule is made absolute in the aforesaid manner.

Date : 8-9-1999 [C.K.Buch, J.]

Kailash